IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITON NO.214 OF 2005

Niskalp Investments & Trading Company Ltd. ...Petitioner.

vs.

Wescare India Ltd. & Others. ...Respondents.

Mr.P.K.Samdhani i/b. Wadia Gandhi & Co., for Petitioner.

Mr.J.P.Sen i/b. Mr.Bharat Joshi, for Respondent no.1.

Mr.Ganesh Mirashigaonkar i/b. Mr.Chandra Naik, for Respondent no.2.

CORAM: D.K.DESHMUKH,J.

DATED: 28th November,2005

P.C.:-

By consent of parties, the petition is disposed of in the following terms without prejudice to the contention of the respondents regarding jurisdiction of the Arbitral tribunal to entertain

the disputes between the parties.

1. The petitioner has appointed Hon'ble Mr.Justice M.L.Pendse (Retired) as his nominee on the Arbitral Tribunal. The respondents have appointed Hon'ble Mr.Justice M.H. Kania (Retired) as their nominee on the Arbitral Tribunal. The two learned Arbitrators shall appoint third Arbitrator who will be the Chairman of the Arbitral Tribunal.

2. Until further orders to be made by the Arbitral Tribunal, ad-interim order in terms of prayer clause (d) excluding the bracketed portion and ad-interim order in terms of prayer clause (g) excluding the bracketed portion shall continue.

3. The respondent no.1 has stated in the affidavit in reply dated 2nd September,2005, that 96,02,886 (Ninety Six lakhs Two thousand Eight hundred and Eighty Six) Units which are banked with M/s.A.P.Transco Ltd. can be sold by the petitioner in the open market. Therefore, it is directed that the petitioner shall be at liberty to sell the above referred number of units banked with M/s.A..P. Transco Ltd subject to the result of the Arbitration proceeding. After the sale is completed, the petitioner shall furnish accounts to the respondents.

4. The parties shall be at liberty to apply for any further interim order that may be necessary, to the Arbitral Tribunal.

5. The learned Counsel appearing for the respondent no.1 states that for effecting sale of the above referred units in case the petitioner requires any authority or letter to be signed by the respondent no.1, the respondent no.1 shall comply with that requirements on being communicated by the petitioner. The statement is accepted.

6. It is made clear that this order is made without prejudice to the contentions of both the sides. All the contentions are kept open.